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MARINE INSURANCE COMPANY

**UNITED STATES DISTRICT COURT**  
**EASTERN DISTRICT OF CALIFORNIA**  
**SACRAMENTO DIVISION**

BAY BRIDGE CAPITAL PARTNERS, LLC,  
  
Plaintiff,

v.

NATIONAL FIRE & MARINE INSURANCE  
COMPANY,  
  
Defendant.

Case No. 2:24-CV-01378-DJC-CKD

**STIPULATED PROTECTIVE ORDER**



**WITH MODIFICATIONS BY THE  
COURT**

WHEREAS the parties believe in good faith that certain information discoverable in this case may include proprietary, financial, business, or other types of commercially valuable or otherwise private or sensitive information that the respective parties maintain in confidence in the ordinary course of business; and

WHEREAS the parties reasonably believe that public disclosure of such confidential information would cause financial and competitive harms to the disclosing party; and

STIPULATED PROTECTIVE ORDER  
2:24-CV-01378-DJC-CKD

1 WHEREAS the parties believe that good cause exists for the entry of this order, which is  
2 narrowly tailored to protect the aforementioned confidential information of the parties, pursuant  
3 to Federal Rule of Civil Procedure 26(c); and  
4

5 WHEREAS the parties also wish to protect from waiver the attorney-client privilege  
6 and/or the work-product protections of their documents and materials against the inadvertent  
7 production of such privileged documents and materials during the discovery phase of this  
8 litigation;  
9

10 THEREFORE, by reason of the foregoing, Plaintiff Bay Bridge Capital Partners, LLC  
11 (“BBCP”) and Defendant National Fire & Marine Insurance Company (“NFMIC”) (collectively  
12 the “Parties”), by their counsel, jointly and respectfully request that the Court enter the following  
13 Stipulated FRE 502(d) and Protective Order (hereinafter, the “Protective Order”) in this matter.  
14

15 **PURPOSE AND SCOPE OF THIS PROTECTIVE ORDER**

16 1. Disclosure and discovery activity in this action is likely to involve production of  
17 confidential, proprietary, financial, or private information that is not generally known for which  
18 special protection from public disclosure is warranted. The parties wish to ensure that any such  
19 confidential information is not used for any purpose other than this litigation, is not made public,  
20 and is not disseminated beyond what is necessary for the purposes of this litigation, and that any  
21 disclosure of confidential information is made only in accordance with the procedures and  
22 requirements set forth in this protective order.  
23

24 2. This protective order shall apply to trade secrets, confidential and proprietary  
25 information, documents and things that are produced or disclosed in any form during the course of  
26 this action by any party or any nonparty, including:  
27

28 a. through discovery;

- b. in any pleading, document or other writing; or
- c. in testimony given at a deposition.

This Protective Order similarly applies to all information copied or extracted from any of the above, and all copies, excerpts, summaries and compilations thereof. (All of the foregoing information, documents and things shall be referred to hereinafter collectively as “Litigation Materials.”) This Protective Order does not apply to materials already in the possession of any party prior to the disclosure to that party during the course of this action, except where that party already has a duty to protect the confidentiality of such materials, or to any information that was or is publicly available. For the avoidance of doubt, this Protective Order does not affect any pre-existing rights or duties to the extent such rights or duties exist (for example, without limitation, to maintain the confidentiality) with respect to any materials exchanged between the parties prior to this action.

### **CONFIDENTIAL INFORMATION**

3. Any party or nonparty producing or disclosing litigation materials in this action may designate such information as “confidential” by designating it in the manner set forth in paragraph 4 below. The designation of litigation materials as “confidential” shall be limited to information that the disclosing party or nonparty believes in good faith contains, constitutes or reveals proprietary commercial information, non-public financial information, trade secrets, private information about current or former employees, contractors or vendors (including employee, contractor and vendor personnel records), other information of a privileged, proprietary, private or personal nature, or “protected data” as defined below.

“Protected Data” shall refer to any information that a party believes in good faith to be subject to federal, state or foreign data protection laws and regulations or other privacy obligations. Protected Data constitutes highly sensitive materials requiring special protection.

1 Examples of such data protection laws include but are not limited to The Gramm-Leach-Bliley  
2 Act, 15 U.S.C. § 6801 *et seq.* (financial information); The Health Insurance Portability and  
3 Accountability Act and the regulations thereunder, 45 CFR Part 160 and Subparts A and E of Part  
4 164 (medical information); and The Fair Credit Reporting Act, 15 U.S.C. § 1681m and the  
5 regulations thereunder, 17 CFR Parts 162 and 248 (identity information).  
6

7 Information designated as “CONFIDENTIAL” may only be used and disclosed as  
8 provided in this Protective Order.  
9

#### 10 **MANNER OF DESIGNATION OF MATERIALS**

11 4. A party or nonparty may designate litigation materials as “confidential” in the  
12 following manner:

13 a. Documents or Things. “CONFIDENTIAL” treatment may be obtained by  
14 typing or stamping “CONFIDENTIAL” on the particular document or thing.

15 In addition, any Party may, within thirty (30) calendar days after the production of  
16 materials or information, specifically designate materials or information produced by another  
17 Party “CONFIDENTIAL” by notifying all Parties in writing of the portions of the materials or  
18 information which contains such information. Each Party shall attach a copy of such statement to  
19 the face page of the materials or information and to each copy in its or his possession, custody or  
20 control. Thereafter, these portions of the materials or information designated as  
21 “CONFIDENTIAL” shall be treated in accordance with the terms of this Protective Order.  
22

23 b. Interrogatory Answers and Responses to Requests for Admissions. In  
24 answering any interrogatory or request for admission, or any part thereof, a Party may designate its  
25 answer as “CONFIDENTIAL” by affixing thereto the legend “CONFIDENTIAL”. Such  
26 “CONFIDENTIAL” answers shall be made on separate pages from any other answers or portions  
27 thereof that are not designated as “CONFIDENTIAL”.  
28

1 c. Deposition Testimony. Any Party or nonparty giving deposition testimony  
2 in this action may obtain “CONFIDENTIAL” treatment therefore by designating the testimony,  
3 during the course of that testimony, as “CONFIDENTIAL”, or alternatively by designating the  
4 entire transcript as “CONFIDENTIAL”, subject to a good-faith obligation to identify any non-  
5 confidential portions of the testimony within thirty (30) calendar days after receipt of the transcript  
6 of the testimony. The reporter shall separately transcribe and bind the testimony designated as  
7 “CONFIDENTIAL” and shall mark the face of the separate bound transcript containing such  
8 testimony with the term “CONFIDENTIAL”.

9  
10 Any Party or nonparty may, within that thirty (30) calendar day period described above,  
11 specifically designate information contained in the transcript(s) as “CONFIDENTIAL” by  
12 notifying all Parties in writing of the portions of the transcript or exhibit that contains such  
13 information. Each Party shall attach a copy of such statement to the face page of the transcript or  
14 exhibit and to each copy in its or his possession, custody or control. Thereafter, these portions of  
15 the transcript or exhibits designated as “CONFIDENTIAL” shall be treated in accordance with  
16 the terms of this Protective Order.

17  
18 If, during the course of deposition testimony, any Party or nonparty reasonably believes  
19 that the answer to a question will result in the disclosure of “CONFIDENTIAL” information, all  
20 persons other than those persons entitled to receive such information pursuant to Paragraph 6  
21 hereof shall be excluded from the room in which the deposition testimony is given.

22  
23 d. Collections of Documents, Storage Drives, DVDs, CD-Roms, Etc. Typing  
24 or stamping the legend “CONFIDENTIAL” upon the first page of a collection of Litigation  
25 Materials which are physically bound together shall have the effect of designating such collection  
26 in its entirety as “CONFIDENTIAL”. In the case of disks, tapes, CD-ROMs, DVDs and other  
27 tangible storage drives, media or devices, labeling, stamping or marking the outside of such disk,  
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1 tape, CD-ROM, DVD or other medium or device with the legend “CONFIDENTIAL” shall have  
2 the effect of designating the entire contents of such disk, tape, CD-ROM, DVD or other medium  
3 or device, and all data stored thereupon, as “CONFIDENTIAL,” so long as a good-faith basis exists  
4 for a designation of that scope.

5  
6 **RESTRICTIONS ON DISCLOSURE OF DESIGNATED MATERIALS**

7 5. Any litigation materials produced or disclosed in this action that are designated  
8 “confidential” may only be used for purposes of this litigation and not for any other purpose,  
9 including without limitation for any business or trade purpose. As used herein, the term “litigation”  
10 shall mean preparation for, participation in and prosecution and defense of any suit, motion, trial,  
11 appeal, hearing, review or other judicial proceeding or in connection with any mediation or other  
12 alternative dispute resolution procedure that this or any other court may order or that the parties  
13 may agree to.

14  
15 6. Subject to paragraphs 7 and 8 herein, and unless as otherwise ordered by the court,  
16 litigation materials designated as “confidential” shall not be disclosed to any person other than:

17 a. the attorneys for the Parties and their partners, shareholders, associates,  
18 document clerks and paralegals who are necessary to assist such attorneys;

19 b. secretaries, stenographers and other office or clerical personnel employed by  
20 said attorneys and who are necessary to assist such attorneys;

21 c. a named Party, a person whom counsel in good faith believes to be a  
22 potential witness in this action, or officers, directors, councilors, or employees of a named  
23 Party – in each case solely to the extent deemed necessary by the receiving Party’s attorneys for  
24 purposes of assisting in this litigation;

25 d. the authors, senders, addressees and designated copy recipients of any  
26 document or thing which has been designated as “CONFIDENTIAL” information;  
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1 e. such other persons as may be consented to by the Party or nonparty  
2 designating such information as “CONFIDENTIAL” information, provided that such consent may  
3 not be unreasonably withheld;

4 f. professional court reporters engaged to transcribe deposition testimony,  
5 professional videographers engaged to videotape deposition testimony, and translators;

6 g. outside litigation support vendors, including commercial photocopying  
7 vendors, scanning services vendors, coders and keyboard operators; and

8 h. independent outside consultants or experts retained by the attorneys or the  
9 parties to the extent deemed necessary by said attorneys for purposes of this litigation, provided  
10 that the requirements of Paragraph 8 are complied with prior to any disclosure.

11  
12 7. None of the following is bound by or obligated under this protective order in any  
13 respect and specifically are not bound or obligated to treat information designated as “confidential”  
14 in any particular manner: the court hearing this action (including the court having jurisdiction of  
15 any appeal), court personnel, court reporters working for the court, translators working for the court,  
16 or any jury impaneled in this action.

17  
18 8. Other than those identified in paragraph 7 above, each person to whom information  
19 designated as “confidential” is disclosed shall be informed of the terms of this protective order and  
20 agree to be bound by it before disclosure to such persons of any such information. The persons  
21 described in paragraphs 6(g) and 6(h) shall not have access to “confidential” information until they  
22 have certified that they have read this protective order and have manifested their assent to be bound  
23 thereby by signing a copy of the assurance of compliance attached hereto as exhibit a. Once a  
24 person has executed such an assurance of compliance, it shall not be necessary for that person to  
25 sign a separate assurance of compliance each time that person is subsequently given access to  
26 confidential material.  
27  
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1           9.       The failure of any party to object to the designation of information as “confidential”  
2 shall not be deemed an admission that such information qualifies for such designation.

3           10.       Challenges to and disputes regarding confidentiality designations shall follow the  
4 procedure set forth in this paragraph 10, including all subparagraphs. Any party or nonparty may  
5 challenge a designation of confidentiality (“challenging party”) at any time that is consistent with  
6 the court’s scheduling order. Unless a prompt challenge to a designating party’s confidentiality  
7 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
8 burdens, or a significant disruption or delay of the litigation, a party does not waive its right to  
9 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
10 original designation is disclosed.  
11

12               a.       Meet and Confer. In the event that a Challenging Party disagrees with the  
13 designation by the producing entity of any Litigation Materials as “CONFIDENTIAL”, the  
14 Challenging Party’s counsel shall initiate the dispute resolution process under Local Rule 26.2(c).  
15 In conferring, the Challenging Party must explain the basis for its belief that the confidentiality  
16 designation was not proper and must give the Designating Party an opportunity to review the  
17 designated material, to reconsider the circumstances, and, if no change in designation is offered, to  
18 explain the basis for the chosen designation.  
19

20               b.       Court Intervention. If the Parties cannot resolve a challenge without Court  
21 intervention, the Designating Party shall file and serve a motion concerning the confidentiality  
22 designation. The burden of persuasion in any such challenge proceeding shall be on the  
23 Designating Party. Frivolous designations or challenges, and those designations or challenges  
24 made for an improper purpose (*e.g.*, to harass or to impose unnecessary expenses and burdens on  
25 other parties) may expose the respective Designating Party or Challenging Party to sanctions.  
26 Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties  
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1 shall continue to afford the material in question the level of protection to which it is entitled under  
2 the Designating Party's designation until the Court rules on the challenge.

3 11. Nothing contained in this protective order shall restrict or prevent any party or  
4 nonparty from disclosing or otherwise using its own litigation materials which that party or  
5 nonparty produces or discloses in this action or in any other capacity.

6  
7 12. The inadvertent or unintentional disclosure by a producing party or nonparty of  
8 "confidential" litigation materials during the course of this litigation, regardless of whether the  
9 information was so designated at the time of disclosure, shall not be deemed a waiver in whole or  
10 in part of a party's or nonparty's claim of confidentiality, either as to the specific information  
11 disclosed or as to any other information relating thereto or on the same or related subject matter.  
12 Promptly upon discovery of inadvertent or unintentional disclosure of "confidential" litigation  
13 materials, the producing entity may notify the requesting party in writing that such documents or  
14 information were produced without the appropriate designation. The requesting party shall  
15 immediately treat the disclosed document or information as "confidential" upon receipt of such  
16 written notice. To the extent that the requesting party has already disclosed such information, such  
17 disclosure shall not be a violation of this protective order, but the requesting party shall promptly  
18 collect any copies of disclosed material that have been provided to individuals other than those  
19 authorized under this protective order and shall destroy or return them to the producing entity.

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21  
22 13. Pursuant to rule 502 of the federal rules of evidence, if a party or nonparty through  
23 inadvertence produces or provides discovery that it, he or she believes is subject to a claim of  
24 attorney-client privilege or work product protection, the producing party or nonparty may give  
25 written notice to the receiving party or nonparty that the document is subject to a claim of attorney-  
26 client privilege or work product protection and request that the document be returned to the  
27 producing party or nonparty. The receiving party or nonparty shall promptly return to the producing  
28

1 party or nonparty the inadvertently disclosed document and all copies of such document. Return  
2 of the document by the receiving party or nonparty shall not constitute an admission or concession,  
3 or permit any inference, that the returned document is, in fact, properly subject to a claim of  
4 attorney-client privilege or work product immunity, nor shall it foreclose any party from moving  
5 the court for an order that such document has been improperly designated or should be producible  
6 for reasons other than a waiver caused by the inadvertent production. Pursuant to federal rule of  
7 evidence 502(d), the inadvertent disclosure of privileged or work-product protected materials also  
8 shall not waive that privilege for those documents in any other federal, state or other proceeding.  
9 Nothing in this paragraph or elsewhere in this protective order shall relieve the receiving party of  
10 any obligations it may have to notify the producing party if it believes that privileged material may  
11 have been inadvertently produced.  
12

13  
14 14. Nothing contained in this protective order shall affect the right of any party or  
15 nonparty to make any objection, claim any privilege, or otherwise contest any request for  
16 production of documents, interrogatory, request for admission, or question at a deposition or to  
17 seek further relief or protective orders from the court in accordance with the federal rules of civil  
18 procedure and the local rules. Nothing in this protective order shall constitute an admission or  
19 waiver of any claim or defense by any party.  
20

#### 21 **FILING AND USE IN COURT OF DESIGNATED MATERIALS**

22 15. The parties shall follow the applicable rules of the federal rules of civil procedure,  
23 local rules of the United States District Court for the Eastern District of California, and the  
24 electronic case filing system cm/ecf user's manual for the United States District Court for the  
25 Eastern District of California when filing documents containing properly designated "confidential"  
26 information.  
27

#### 28 **THIRD PARTY REQUEST FOR DESIGNATED MATERIALS**

## **DISCOVERY FROM NONPARTIES**

18. Subject to and in accordance with paragraph 17, a party or nonparty may designate materials or information produced in this case as “confidential” in the following manner:

1           a. Any Party may designate materials or information produced by a nonparty  
2 in this case as “CONFIDENTIAL” by providing written notice of such designation and the  
3 corresponding range of produced materials or information covered by such designation to the other  
4 Parties and the producing nonparty within thirty (30) days of the production of materials or  
5 information that constitute “CONFIDENTIAL” materials or information of the designating Party.  
6

7           b. A nonparty may designate materials or information produced in this case by  
8 a Party as “CONFIDENTIAL” any materials or information produced by a Party that constitute  
9 “CONFIDENTIAL” material or information of such nonparty by providing written notice of such  
10 designation and the corresponding range of produced materials or information covered by such  
11 designation to the Parties within fourteen (14) days of the determination that materials or  
12 information have been produced by a Party that constitute “CONFIDENTIAL” material or  
13 information. This written notice shall include how and when the nonparty determined that materials  
14 or information that constitute “CONFIDENTIAL” material or information were produced in this  
15 case by a Party.  
16

17                           **AMENDMENT OF THIS PROTECTIVE ORDER**

18           19. The provisions of this protective order may be modified at any time by stipulation  
19 of the parties as approved by order of the court. In addition, a party may at any time apply to the  
20 court for modification of this protective order pursuant to a motion brought in accordance with the  
21 rules of the court.  
22

23           20. The Court retains the right to allow disclosure of any subject covered by this  
24 Stipulation or to modify this Stipulation at any time in the interest of justice.

25                           **ENFORCEMENT OF THIS PROTECTIVE ORDER**

26           21. Any violation of this Order may be punished by any and all appropriate measures  
27 including, without limitation, contempt proceedings and/or monetary sanctions.  
28

**IT IS SO STIPULATED:**

Dated October 18, 2024

Counsel for Plaintiff  <u>/s/ Caitlin N. Rabiyan</u>  <b>HANSON BRIDGETT LLP</b> Linda E. Klamm Miles C. Holden Caitlin N. Rabiyan 425 Market Street, 26th Floor San Francisco, CA 94105 Telephone: (415) 777-3200 Facsimile: (415) 541-9366	Counsel for Defendant  <u>/s/ Andrew L. Margulis</u>  <b>ROPERS MAJESKI, PC</b> Andrew L. Margulis, Pro Hac Vice Jung H. Park 800 Third Avenue, 29th Floor New York, NY 10022 Tel: (212) 688-5927 Fax: (212) 668-5929
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**ORDER**

The Court has reviewed the parties' stipulated protective order. (ECF No. 15.) The stipulation comports with the relevant authorities and the court's applicable local rule. *See* L.R. 141.1. The Court APPROVES the protective order, subject to the following clarification. The Court's Local Rules indicate that once an action is closed, it "will not retain jurisdiction over enforcement of the terms of any protective order filed in that action." L.R. 141.1(f); *see also, e.g., MD Helicopters, Inc. v. Aerometals, Inc.*, 2017 WL 495778 (E.D. Cal., Feb. 03, 2017) (noting that courts in the district generally do not retain jurisdiction for disputes concerning protective orders after closure of the case). Thus, the Court will not retain jurisdiction over this protective order once the case is closed.

**Further**, the protective order appears to contain references to local rules from other districts. *See* Stip. Prot. Order ¶ 10 (a) (referencing Local Rule 26.2(c), which does not exist in the Eastern District.) To the extent the parties' protective order references local rules of other districts, the Court rejects these references and reminds the parties to refer to the local rules of the Eastern District of California.

1 Dated: October 21, 2024



CAROLYN K. DELANEY  
UNITED STATES MAGISTRATE JUDGE

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Exhibit A

**ASSURANCE OF COMPLIANCE**

I, \_\_\_\_\_, under penalty of perjury under the laws of the United States of America, declare and state as follows:

I reside at \_\_\_\_\_, in the City/County of \_\_\_\_\_ and the State/County of \_\_\_\_\_;

I have a copy of the annexed Stipulated Protective Order (“Protective Order”) dated \_\_\_\_\_, 2024, in the action entitled *Bay Bridge Capital Partners LLC v. National Fire & Marine Insurance Company*, Case No. 2:24-cv—1378-DJC-CKD, which is currently pending in the United States District Court for the Eastern District of California;

I am fully familiar with and agree to comply with and be bound by the provisions of that Protective Order;

I will not divulge to persons other than those specifically authorized by the Protective Order, and will not copy or use, any Litigation Materials designated as “Confidential” except solely as permitted by the Protective Order; and

I consent to the jurisdiction of the United States District Court for the Eastern District of California for the purpose of enforcing the Protective Order, enjoining any violation or threatened violation of the Protective Order, or seeking damages for the breach of the Protective Order.

Dated: \_\_\_\_\_

[Signature]

**ATTESTATION**

I, \_\_\_\_\_, am the ECF user whose identification is being used to submit this Stipulated FRE 502(d) and Protective Order. I hereby attest that consent to the electronic signing of this document was obtained from all parties whose electronic signature appear above.

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By: DRAFT\_\_\_\_\_